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1849

MEMORIAL

TO THE

STATE LEGISLATURES

OF THE

UNITED STATES.

25.7

BY JOHN W. KING.

CINCINNATI:
MORGAN & OVEREND, PRINTERS.
1849.

Class JK 170
Book 1849

AVERMENTS.

WE ARE CLEARLY IN A TRANSITION STATE.

The constitutional *expedient* to insure the election of Gen. George Washington to the first Presidency of the United States, by the untrammeled will of the majority of the whole people, has failed as a *fundamental* principle of government.

"The contingent election by the House" is condemned and rejected.

The *substitute*, by the nomination of private caucus, is rapidly perishing in the conflicts, and corruptions, and invidious exclusions of its own creation.

"The office should neither be sought nor refused."—Wm. Lowndes.

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Rosedown, West Feliciana, La.
November 12th, 1848.

To the Honorable,

the Speaker of the Senate, and of the House of Representatives of the State of

the following Memorial is most respectfully forwarded, with the request that he will be so good as to bring it to the notice of the House over which he presides, in such manner as shall be most agreeable to himself; and much oblige

Yours very respectfully,

JOHN W. KING.

MEMORIAL.

TO THE HONORABLE, THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF LOUISIANA.

Your memorialist, in approaching your honorable body, would beg most respectfully to represent, that he has, in submitting the following Projets of amendment of the Federal Constitution, no political ambition whatever to gratify — no secret revenge — no partizan zeal — no personal hatred — nor vanity, save that (if it may be so called) of *suggesting* to the consideration of your Honorable Body, a measure believed to be greatly demanded for the public good.

It is known to your Honorable Body, that the fifth article of the Federal Constitution distinctly designates and ordains, the manner in which that instrument may be amended, either through the intervention of two-thirds of "both Houses of Congress;" or by convention on the application of the Legislatures of two-thirds of the States, and with the final ratification of three-fourths of the Legislatures of all the States.

Your memorialist would beg leave to say, that he has ever considered this fifth article as *decidedly* the most important in the Federal Constitution.

1. Because it was designed to perfect the *theory* of the *organic* law of the confederacy, by the lights of an enlarged experience; as the eighth section of the first article was designed to perfect the *practical* administration of the government it had instituted.

2. Because it provides in the mode of amendment the most effectual method to secure the harmony of the confederacy, and the perpetuation of the Union.

3. It is the most important, because, if it should so happen i n the course of time, or change of circumstances, or the relations of the States, that the Federal Compact becomes inapplicable or burthensome to three-fourths of the States, or *operates* injustice to a small minority, or threatens the *whole* with demoralization and disorganization, it can be *legitimately* and harmoniously modified or abolished, if indispensable to the ends of justice and order.

4. It is important, because, while it makes it difficult to change the organic law for light and frivolous or transient causes, it furnishes the very best *constitutional* method of subjecting substantial public grievance, or threatening public danger, growing either from the strict observance of

its requirements, or from the subtle evasions, or the open infractions of its principles, to the scrutiny of the most enlightened and deliberate investigation.

5. It is important, because it assumes that the *convention* who formed the Federal Constitution apprehended that it might not in all its parts work out their designs, or the greatest good of the *people* to whom they recommended it as an *experiment*, subject to the modifications which time and experience and patriotism and the changing condition and relations of the States and the world might demand; or the usurpations or evasions either of the practical government to stretch and abuse its powers, or of private individuals or political organizations, to set them aside, might require to prevent *silent* revolution.

6. It is important, because, it was foreseen in this fifth article, and in the eighth section of the first article taken together, that this government *must* be in *part* a government of fundamental principles or rules, to make it honest, just and stable; and in *part* a government of policy, or discretion, or choice, to make it practical, wise, and strong. Hence it was ordained, that its policy should always be subjected to its principles, in the *restriction* of its legislative power to "all laws necessary and proper," to carry into effect the foregoing (enumerated) powers, and all others conferred by this constitution.

In the fifth article then, may it please your Honorable Body, we behold the wisest provision made for the coming crisis, when the people shall *rise above* or fall *below* the scale of their government — when the crisis shall arrive, in which the true policy and sound discretion and real wants of the confederacy, shall come into conflict with the enumerated powers and settled principles of the constitution — when the alternative shall be presented of *Revolution*, or REFORM — when talented ambition, backed by strong local and sectional interest, shall attempt through the ordinary legislature the exercise of powers not confided by the constitution, and which should *not* be conferred without the concurrence of more than a mere NUMERICAL majority, and not without being thoroughly guarded against *constructive* abuse, *then* the fifth article of your organic law will come to be duly estimated. Yes! may it please your Honorable Body, when the strong passions of sordid avarice and unholy military ambition — of jealousy and revenge — of popular excitement and individual hatred, in the struggles and throes of party rivalships for supremacy, and the balance of political power, shall spread their baleful influence and lurid glare across this land; then it will be *both seen and felt*, that in the fifth article of your constitution, formed by the old patriots of the Revolution of 1776, is offered the most wise and beneficent scheme that man ever projected and *adopted* to stave off usurpation and abuse — secure true "PROGRESS," and to perfect national prosperity and happiness.

It supersedes the necessity of *usurping* as above observed, substantive cardinal powers not "enumerated" in the constitution. It supersedes the necessity of *abusing* powers delegated for *special* purposes, by using them as *auxiliary* powers to accomplish any other purposes than the single purpose for which *each* power was especially delegated. It super-

sedes the necessity of employing any other *means* than those which are *necessary* AND proper as auxiliary or "incidental powers" for the fulfillment of the "enumerated powers;" and finally it supersedes the necessity of setting up "KING CAUCUS," to elect the President and Vice President of the United States, under the *fraudulent* cognomen of "*convention*," to disfranchise the people and to enfranchise party, for the express purpose of concentrating, if possible, the whole popular vote on a single candidate or aspirant nominated by the *caucus;* and by consequence deprive each individual citizen of the exercise of his *own* choice, to prevent the "contingent election by Congress," and thereby deprive the little State of Delaware of her constitutional right under the Federal Constitution to balance the vote of the Empire State of New York, in the event that the *people*, voting under the *organic law of the confederacy alone*, and not under that of *King Caucus*, should fail to make the election.

In confirmation of this last statement, it is most respectfully averred by your memorialist, that it is known as an incontestible *fact* — that it is *avowed* as an open purpose — and that it is *essential* to the *discipline of party*, that a private caucus *nomination*, by a party, shall be equivalent to election by the party, *so far at least as the party is concerned.* This, it is believed cannot and will not be denied, by those who understand the subject.

Your memorialist then would respectfully ask your Honorable Body, what has become of the Federal Constitution and the forms it prescribes? Surely! they "have a name to live when they are dead." Surely! *quoad* this transcendently important matter, at least they are superseded, because they are considered *defective.* The organic law and obligations of party have set aside the organic law and patriotism of the people. The high behest of King Caucus and the obligations of party fealty, are already brought into most dangerous conflict with the freedom of all elections — of *all* legislation and of *all* appointments to office, from the President to the Constable; from the Postmastergeneral to the Tide Waiter. Party "platforms and party elections are about being substituted for constitutional platforms and constitutional elections;" when the Chief Magistrate of this confederacy must necessarily, from the mode of his election, become the President of *the party* which nominated and elected him, not the *President of the United States as officially denominated by your Constitution.* Otherwise he will be denounced as a traitor, and satirized "a parenthesis" or "a fraud." But your memorialist will forbear to touch all the disastrous consequences and evil workings of the caucus innovation. Its theory is bad enough — its history was opened and foreshadowed fifty years ago in the Congress of the United States; some of whose members still look back to the "Flesh Pots of Egypt." But it is not the purpose of your memorialist to write its history; nor to read your Honorable Body a lecture on politics — nor to criticise — nor criminate; but to pray your attention and consideration of this grave and disturbing question, *so big with results.* What your memorialist has above censured, and what he forbears still further to *expose*, are *results of defects in the organic law.* They are *consequences* which all good

and intelligent citizens must see and deplore, and would arrest by private expedients if it were possible to do so. But the fearful disease of the body politic is not to be cured by the caucus expedients. It is *connate and organic*, and demands radical reform in the fundamental law of the Union — all else is blind or wicked political empiricism.

To this end, your memorialist would beg leave most respectfully to submit to the consideration of your Honorable Body, the following substitute as an amendment for the twelfth article of the amendments of the Federal Constitution.

"ARTICLE XIV.

"On some named day in the month of February, 1852, to be fixed by the act of Congress, the clerk of the Senate of the United States for the time being, and every four years thereafter, should be required by law to prepare and have in readiness, a mahogany box of proper construction for a draft or lottery box, and just so many ivory balls, as there shall be, for the time being, United States Senators duly qualified, all of precisely the same form and finish, except one shall be black and marked *President of the United States*, and another shall be red and marked *Vice* President of the United States, and the whole of the balance to be white. On the day, appointed by law, it should be made the duty of the Vice President, for the time being, to announce the hour for draft or lottery; when he shall take charge of the box, and in the presence of the whole Senate accurately count into it all the balls, when each member of the Senate present shall then be required by name and in succession, according to any rule of draft which may be established by a majority of the Senate, to take one ball from the box until the balls are exhausted or the election declared by the Vice President in favor of the two Senators who shall respectively have drawn the balls marked President and Vice President of the United States, for four years from the 4th of March, 1852; and should any qualified Senator be prevented from drawing, by bodily indisposition or unavoidable detention from the Senate, then, and in either case, the Vice President shall draw for them; before doing which, the name of the Senator he draws for is to be audibly announced to the whole Senate, so likewise the result of the draft in every and each case. When the election is concluded, it shall be made the duty of the Senate to announce the result to the House of Representatives, and to the President of the United States."

In submitting this *project* of an amendment to the Constitution to the consideration of your Honorable Body, your memorialist would beg leave most respectfully to state, that for more than ten years, his mind has been deeply impressed with the conviction that something radical should be done in the premises. He has long felt, and is now most thoroughly assured, that there is a deep-seated defect, in the construction of the organic law, in relation to the periodical election of the Chief Magistrate of this Union, which the private *caucus* of political party cannot remedy.

In ruminating upon the subject, the mind of your memorialist has vacillated between various *projets* of his own creation, invoking the ballot-box primarily. But it was found absolutely unattainable through the *numerical* majority, except by the fraud of an irresponsible party nomination, *misnamed* "convention." It is totally exceptionable though a mere *plurality;* and entirely inappropriate to our Federative system of State sovereignties which, like the associated worlds of the solar system, must harmonize in conformation and action, or perish in the collision. "*Confluxus unus—conspiratio unica conscentientia omnia*" is as essential to our political harmony and union, as it is to that of the physical worlds.

The result is, that they have been all reluctantly and tardily, but fully, surrendered by your memorialist, in favor of an old scheme which was submitted to the consideration of the Senate of the United States (*see Senate Journal, and volume XIV Encyclopedia Americana*), some forty years since, by the late Senator James Hillhouse, from the State of Connecticut; who saw at that early day what your memorialist distinctly sees NOW, that the Chief Executive office of this Union, so full of personal honors and *growing patronage*, should neither be voted for — nor canvassed for — nor intrigued for — nor refused — *no! it should be "a God send."*

Hence the *proposed amendment*, which your memorialist prefers to his own and to any other which has been suggested, for the following reasons, and to which he would beg leave to invoke the attention of your Honorable Body.

First. — Your memorialist prefers it because it is *not* his own. He has therefore no paternal vanity in it to blind him to its faults, or to gratify in pressing its success.

Second.—Your memorialist prefers it because it does not *flatter popular vanity*, through the exercise of the Elective Franchise, like party caucus which promises *Free Suffrage* "to the ear, and breaks it to the heart."

Third — He prefers it because it addresses itself neither to popular passion. nor to popular or sectional prejudices; nor to individual ambition; nor to personal or national hatred — but to the patriotism and sound discretion of the people.

Fourth.—He prefers it because it is so simple — so noiseless — so definite — so just and equal, and so prompt and certain, and incorruptible, and absolutely dangerless.

Fifth. — He prefers it, because it necessarily gets clean rid of "bargain and corruption;" and of "contingent elections by the House;" and of caucus "*packing;*" and caucus "*availability*" which *both* of the great political parties have at different times condemned and despised.

Sixth. — He prefers it, because it will *necessarily* operate a *selection*, inasmuch as the nominees under the proposed amendment, can be no other than the Representatives of the State sovereignties in the Senate of the United States, PAR NOBILE FRATRUM.

Seventh. — He prefers it, because it will *necessarily* have the most

beneficent influence upon the legislative character of *both* Houses of Congress; but especially on that of the Senate; to confirm its already high claim to be considered the most dignified and talented legislative body in the world: each member of which becomes under the proposed amendment a *sovereign*, and not a caucus *nominee* for the Presidency.

EIGHTH. — He prefers it, because the President, thus selected from the sovereign *nominees* of each of the States, is properly what his constitutional title now imports — "*The President of the United States.*"

NINTH. — He prefers it, because it will bring the President into office as a gentleman and on his oath of office and responsibility to his country without being abused as a pickpocket, and trameled by party platforms, and equivocal declarations of political faith.

TENTH. — He prefers it, because it effectually suspends the periodical convulsions, in our body politic, to dispose of the chief executive crown, which threatens to destroy the dignity, the independence, and the utility of the political press — to demoralize the people, and to dissolve the Union.

ELEVENTH. — He prefers it because it most thoroughly abolishes not only that portion of the Constitution with which all parties except ONE seem dissatisfied, and have set aside as a failure, but it supersedes its substitute, the irresponsible party caucus, to elect the President, which already threatens either to perish in the conflicts of its own creation, or to become geographical and politico — fanatical, to fight for "the balance of political power."

TWELFTH. — He prefers it to any other *projet* which can be offered, because it equalizes *all* the sovereign States in the Senate which has always existed in theory, and which always should exist in practice; and likewise restores the original equality of the President and Vice President, in the proposed mode of election; which is now destroyed by the untoward, but necessary amendment, which discriminated and subordinated the Vice President to harmonize an impracticable system.

THIRTEENTH. — He prefers it most decidedly, because the proposed amendment would protect *some* of our ablest and most practical citizens, the pride of their country and the idols of their most intimate friends, who know them best, against the unscrupulous billingsgate abuse of intolerent and unmerciful party scrutiny, which assumes that all play is fair play in politics; and protects *others* equally estimable from the deep chagrin, and from the unjust and invidious *exclusion* of their common right to the untrammeled suffrages of their fellow citizens, for the offices of their country, inflicted by *irresponsible private party caucus.*

FOURTEENTH. — Your memorialist would further prefer the scheme of the late Senator Hillhouse, because it would make the election from the Senate, by *lottery* and not *by* the Senate, by ballot or *viva voce.* The former mode of election would make the President a public officer — "*President of the United States*, without any motive or obligation to be otherwise than the chief magistrate of the Union. The latter would make him the instrument — the tool or creature of an organized party in the Senate, to do its biddings.

Fifteenth. — Your memorialist prefers the proposed amendment, because there is no intrigue in it — no vice — no management — nor can be. It is downright, straight forward, and honest; whereas the *caucus system* is a *hypocrite and a fraud.* It assumes the name of "convention," the very highest institution known to our laws, to cheat the people, in the control of the free exercise of the elective franchise; the most delicate and the most important right known to our laws. It should be, the "*Vox Dei*" — the unpolluted fountain of all law.

Sixteenth. — Above all, your memorialist prefers the amendment to the existing provision of the organic law, because, it would make a "fiction" of the election of the President of the United States to avoid all the evils and dangers of a periodical struggle for the chief Executive office in this country, as in England they have made a fiction of the Executive in the hereditary right of Victoria and the omnipotence Parliament, to avoid all the evils and dangers of an elective monarchy; and he further prefers it to the private caucus, because that gives a fiction of a choice, outside of the constitution, with all and more than the evils and dangers of a popular election, under the constitution.

Seventeenth. — Your memorialist, therefore, prefers it, because it furnishes no political *leaven* to generate either geographical or national parties; nor *nucleus* upon which to fix and organize them. The fermentations to elect Senators in each state, would be as "tempests in a teapot," compared with the periodical tornados which the existing system generates and concentrates upon the whole Union, *simultaneously.*

Eighteenth. — He prefers it, therefore, because it presents to the people no "*clarum mirabile nomen*" to tempt and seduce them to the election of some bold and dashing military chieftain who fills the public eye, and with whom the *end* justifies the means, and therein wink at the sacrifice of the principles of their Constitution, and blindly coöperate in the consummation of their own ruin. It was "*Cæsar aut nullus*" that ruined Rome. It already threatens America.

Nineteenth. — But farther. Your memorialist prefers the proposed to the *caucus* system, because in ceasing to *organize* under that system *two* national or geographical parties, whether Whig or Democrat — Northern or Southern — Slaveocrat or anti-Slaveocrat — Guelph or Ghibelline — to fight for the Executive succession, and the party triumphs and prizes of Executive patronage, the political press will cease to be retained, as *Athlete* in the game; but the press in each State, as likewise its patrons, the people, being untrammeled by politicians and party organizations, will become the bold expounders of sound political principles and policy, and not the subservient instrument retained to propagate party slanders, mistify the truth, and throw dust in the public eyes. Released from the shackles of national and geographical party organizations, its salt will become savor — its light will not become "*great darkness*" — its compliments will be praises, and its censures will not be slanders. But inspired by its legitimate avocation and its true destiny, it will aspire to collect *facts* and make *just inferences from them*, without suppression

or equivocation. Then, when the warder on the watch cries, Wolf! Wolf! he will be believed.

Twentieth. — Your memorialist further prefers the fourteenth amendment, because, although it will completely suspend the political typhoon, fraught with moral pestilence and violence, which periodically sweeps over the whole Union simultaneously, it will wake up in *each* State a *local* excitement, in succession, and in detail, to make the election of Senators, which will diffuse in each and all the States, a localized, individual action around its own political center, and of all, around their common center, in which "all nature's difference will keep all nature's peace."

Twenty-first. — Your memorialist moreover prefers the fourteenth and fifteenth amendments in *connection*, because they completely separate the Legislative and Executive departments of the government — secure popular deliberation and *federative* control for the veto power, and therein wisdom in council, consistency with our system of government, and conciliation and *imposing* influence to this anomalous *check* of sovereign action. It realizes the "masterly inactivity" of the people and of the confederacy, in patriotic communion of the majority with the minority, without *faction, and jealousy* of *Executive control*, to poison feeling, warp deliberation, and complicate and weaken the machinery of Government.

Twenty-second. — Your memorialist prefers *both* the proposed amendments to the present *mongrel* system, because they are *avowed alterations*, and not subtle *evasions* of the "written national will" — OPEN REFORM, AND NOT SILENT REVOLUTION. Because they prescribe a *constitutional* method to elect the President and Vice President, out and out, with no contingency, and without covin or device; and a *Legislative* exercise of the "veto power," in consistent harmony with our form of Government, without equivocation or evasion, or deference to the numerical majority. Whereas *both* parties, in adopting the *caucus* system, to get rid of the "contingent election by the House," and of the *sovereign equality* of the little State of Delaware, in the election of President and Vice President of the United States, see and acknowledge, by that very act, the "dead point" in the working of the machinery of the organic law; and to obviate its clear but hated results, have set up a private, organized power, *outside* of the Constitution, which makes a mouthpiece of the Executive — destroys the independent and fearless exercise of the veto power by party platforms and equivocal declarations of political faith — and thereby change the *mixed* form of the General Government, from being partly *national*, partly *federative*, and partly *popular*, into that of the numerical majority (King Numbers) of a dominant political or geographical party, headed and trained and fought in the Presidential "campaign," by practiced *politicians*.

Your memorialist, therefore, would most respectfully ask, if we must needs have a "fifth wheel," to carry us "*beyond the dead point*," in our organic law to elect the President and Vice President of the United States, why not openly frame it to the existing machinery? Why not organize it as a *part* of the fundamental law to make it secure, steady, har-

monious, salutary, and certain in its action? Why leave that to individual volition and secret management, which should be fixed by law, and be made as open as the sun at midday? But that would be an *alteration* of the Constitution, which is sacred, and should never be touched. But why openly deprecate, abjure, and abhor, all *alterations* of the Constitution, and at the very same moment, in the same subject matter, mistify its plain meaning (quo animo), and secretly practice an evasion of one of its contingent provisions, contemplated and provided for in a special manner, by the Constitution itself? Why not ordain, that the people, every four years, at the polls, shall, in each Electoral District throughout the Union, elect a NOMINATOR of President and Vice President of the United States, to meet on a given day, after the election, which should be on the same day in each District throughout the Union, at Baltimore, or some other place, to *nominate* candidates for the Presidency and Vice Presidency of the United States? That in order to *prevent* the "contingent election by the House," and to neutralize the sovereign constitutional equality of the little State of Delaware with the Empire State of New York, and thereby procure and secure the election of *one* of the nominees by the *numerical* majority of the people, there shall be but *two* nominees — one Whig and one Democrat, or one north, and one south, of "Mason and Dixon's Line." That there shall, of course, be no other "regular candidates;" and that those who are refractory, and who don't *choose* to vote for *one* of the regular nominees, shall be disfranchised either of his *choice or of his vote*; and should he dare to be independent and not vote, punish him for *delinquency* in failing to vote at the polls; or denounce him as a traitor, giving aid and comfort to incorrigible *faction* — the common enemy to both *the* parties!!

If, therefore, the caucus system, thus openly established and ruled by the fundamental law of the *whole* people, is so ridiculous and monstrous to contemplate, how shall we long endure the *very same* system privately organized and imposed by *politicians*, and ruled by the acknowledged, indispensable discipline of private party? But if the caucus system, stripped of its fraudulent, hypocritical assumption of being a "*Convention*," and exposed as a proscriptive despotism, is too shocking and incongruous to be dovetailed to our harmonized machinery of equal government, why not ordain that every four years, the people in each Electoral District throughout the Union, on the same day, shall elect at the polls a Presidential and Vice Presidential Elector for each District, who should be required on a named day, within sixty days after the election day, to convene at the seat of the General Government, and there organize themselves into an Electoral College to receive *nominations* for twenty-four hours *only*, and then should be required continuously to ballot, and drop, after each successive ballot, the lowest number from the nominations first made, until the majority of the Electors present shall elect, first, the President, and in succession the Vice President of the United States, and shall certify their election to the ensuing Congress. *Provided however*, that no man holding an office of honor or profit under the General Government, shall be eligible to said College; nor shall any

member thereof be eligible to any office of honor or profit under the President or Vice President elected by the College.

But it must be apparent to your honorable body, that, although this ordination would be infinitely superior to the preceding, in compactness and symmetry, and to the *present* system of intrigue and anarchy to elect the President and Vice President by *private party nominations*, yet it is clear that it would neither *kill off King Caucus*, nor save the people or the press from the strife and corruption generated by the political Olympiad of the present system, to win and award the chief executive crown, with the growing honors and increasing prizes of each executive succession. *With* the *Proviso*, the College of Electors would become the political *arena* of sectional jealousy and individual rivalship — national or geographical parties would be organized in view of its periodical struggles at the seat of the General Government, where the combatants would be placed *toe to toe*, to fight for *party*, if not directly for themselves. But *without* the *Proviso*, the College would become a German or a Polish "*Diet*," to concoct and elaborate schemes of discord and corruption. And although the proviso "teaches good doctrine," as was lately said at Baltimore, it would nevertheless be totally exceptionable with *both* the parties. With the venal and the *ultra* it would be odious and unpropitious to their feelings and selfish calculations; and to those not so, it would appear proscriptive and insulting, or disrespectful to the members of the College to *disfranchise* them of their rightful eligibility to office, through the gratuitous implication of possible dishonesty. The alternatives, then, of its adoption, either with or without the *Proviso*, will be all the evils of a popular election of Electors, every four years, on the moral character of the press and of the great body of the people, with the political Olympiad at the seat of the General Government, to award and distribute the executive power and the prizes of executive patronage, either to persons or to party.

Whether, therefore, may it please your honorable body, you should legalize and regulate the *Caucus*, and thereby change the mixed character of our form of government — transform it by the force and authority of organic law, and not by the organization and discipline of party, into a government of the numerical majority, without failure or contingency to elect the President by party — or whether you adopt the last *projet*, to elect him by "conclave," as at Rome, or by a "Diet" of the confederation at Washington City, we are met by insuperable objections to either *projet*. But to that of the late James Hillhouse, your memorialist has but *one* substantial objection, viz., it is *unpopular*. It has been, and he apprehends will be again, rejected. Not on account of any inherent or practical defects in the *projet* itself, but, first, because it is an avowed *alteration* of the Constitution; second, because of the JEALOUSY of the two organized political parties, who regard it as a common enemy, and fear it as an aggressor that threatens to break their ranks, and diminish their relative strength; third, because it is not in profession *ultra* Democratic, and therein does not flatter popular vanity or feed popular excitement in voting at the polls, although the people at this moment are in caucus

leadingstrings, and virtually disfranchised of their *choice or of their votes*, by "party discipline." And fourth, because it does not serve the purpose of those politicians who delight to dabble, as before remarked, in the muddy waters of party strife, created by party zeal, "not according to knowledge." And fifth, because it does not nominate and always secure the election to the Presidency with unerring certainty, the most practiced, farreaching, and independent statesman, who never stoops to low intrigue, but would make a lottery of the Senate, and an election by the draftbox.

It is true, that the scheme of James Hillhouse, by the *draftbox*, is classic in its origin, and not altogether unknown to ancient Republics. The proposed institution, therefore, should neither be denounced nor sneered at, on that account, by those who know nothing of its origin and its antiquity. It is true, that *its* "availability" for true patriotism and experienced statesmanship, is wholly restricted or limited to the Senate of the United States; and that it is essentially dependent upon the sovereign States of this Union, to place no man in the Senate, unworthy to be the Chief Magistrate of the whole Union, and incapable of being the masterspirit of his own Cabinet; and of the *whole* of whom, the future philosopher, "journeying from afar to behold *our* glory," might not truly exclaim, "*here, too, there are none but gods.*"

But although the draftbox should not always secure from the Senate its very highest genius and abilities for *civil* government, it will never fail to procure for the nation the highest order of moral worth, sound practical knowledge in government, and undoubted patriotism. Whereas the *party* ballotbox, in view of "availability," and the triumphs of party conflict, *may* rather seek victory than qualification — the "spoils of office," than the highest abilities to fulfill its duties. Hence in the *open and direct* contest for office, the talented, thorough-going statesman, of real independence, and of sound political honesty, who never stoops to low intrigue to get into office, may retire or be driven by the ballotbox from the canvass, in secret to mourn over the folly of "poor human nature," and to pray, "Forgive them, Father, they know not what they do;" while the artful and the aspiring, the nose-counting, and the ignorant, hang around the people, curse whom they curse and bless whom they bless, and minister, upon *every* occasion, to popular prejudice, and popular avarice, and popular vanity, to secure availability for the party, and through it, the "loaves and fishes" for themselves.

And such, may it please your honorable body, are the relative CHANCES to be offered in future, for the highest order of talents and practical statesmanship, by the *direct* election of President and Vice President, through the ballotbox, governed by private party caucus, and guided by *availability;* and the *indirect* election, *from* the Senate, through the draftbox, filled by the sovereign States, under all the high impulses of public utility and state pride, to emulate each other, and to compare, without humiliation, their respective representatives with their noble compeers of the Senate.

It would appear necessarily to result then, may it please your honora-

ble body, from all the premises, that the proposed mode of electing the President and Vice President of the United States, can exert no other than a beneficial influence upon each and all concerned. Upon each and all the States it will confer equality, individuality, dignity and responsibility. Whereas the present system is dwarfing all these, and merging the States into sectional and party organizations, geographical and national.

Upon the Senate it will confer a lofty bearing, a patriarchal sublimity of character, in the conscientious conviction that it embosoms the future President of this magnificent confederacy of sovereign States. Whereas the present system of "Presidentmaking," already impairs its harmony and dignity, and threatens to make it, with the lower House, a beargarden of factious prizefighters for the Executive crown, and the bribes of Executive patronage.

Upon the people it will operate to bestow light and fraternal feeling, through the reformed press, which would not then be the retained *Athlete* to keep alive the party fight, and to bring "off" the struggle every four years; but it will become the true "savor" of popular morals and harmonious feeling, and the "light of the world."

And upon the President himself, divested of all legislative power, under the proposed fifteenth amendment, it imposes no duties incompatible with his legitimate *executive* functions — places him in harmony with the whole nation, and disenthralls him from all personal and party obligations; and likewise releases him from the embittered, organized opposition of a defeated, political party press, by which he has been denounced and slandered, and which boasts of being able to "break down any administration, not backed by numerous officeholders, and a wealthy, well-established aristocracy." But should there be opposition, which can never cease, so long as men are free to discuss and seek the truth, it will rally under the flag of measures, not men — of principles, not party — of the Constitution, not *names*.

Twenty-third. — Your memorialist therefore prefers the proposed fourteenth amendment, in connection with the fifteenth, hereinafter to be submitted, for the election of President and Vice President of the United States, to the present system, in connection with the *Caucus*, because it is founded in durability, and looks to eternity. Because from its inherent equality, justice, and definitiveness, it works order, harmony, and peace. Because it is moralizing and ennobling, and therefore civilizing and conservative. Whereas, the present system was formed for General George Washington — for time, and not for eternity — for the MAN, and not for *men*. Hence, as an expedient to secure *his* certain election, it has worked, is working, and will work, dissatisfaction, discord, and demoralization. Hence, it threatens, in connection with the party caucus, to become vitiated, degraded, and dangerous to the Union, and is surely destined to perish in the ambitious conflicts and jealous secessions of its own creation. Hence, in the periodical conflicts for the crown, we already see the "*flag*," the ensign of war, vauntingly "flung to the breeze, at the masthead of the press," and the "*campaign*" an-

nounced by that bulwark of liberty, strangely transformed into the bulwark of war, in utter disregard of the eternal truths (results) "that he who lives by the sword shall perish by the sword;" and that the abuse of the press is the ultimate subversion of the press, morally and politically.

It is believed by your memorialist that the illustrations above presented for your consideration are not fanciful — that they are transcendently important and founded in undeniable facts. But the proposed fourteenth amendment does not supply in this connection all that is wanted. *In reorganizing the executive department*, your memorialist would beg leave most respectfully to make one other suggestion in harmony with the above scheme of election, viz:"

That the executive veto, about which so much has been said and felt, shall be transferred to the Senate by the following amendment to the seventh Section, and first Article.

"ARTICLE XV. [AMENDMENT.]

"No bill shall be passed by Congress into a law, the constitutionality of which has been raised and discussed; or which shall be deemed by the President and Attorney General, disrespectful to the President or an invasion of the jurisdiction of the executive department, without the concurrence of *two-thirds* of *both* Houses. *Provided nevertheless*, that the same bill may be passed by the succeeding Congress, by a majority of the Lower House with the concurrence of two-thirds of the Senate."

This additional modification, may it please your Honorable Body, taken in connection with the first above proposed, does seem to your memorialist to promise all the benefits claimed for the veto power as now exercised by the President under the seventh section, first article, of the Federal constitution; and to obviate all the objections offered to its exercise, by those who denounce it as "the one man power." In detaching all legislative power from the President, the office becomes purely executive as now organized and filled by caucus nominations, and administered upon "platform" principles, or under those of the constitution as "he understands it," the President is compelled, by his obligations to party or by his oath of office and the words of the constitution which are clear, imperative, and unequivocal, to be involved in all the supervisions of ordinary legislation. He is necessarily forced into all the struggles and collisions of party politics, from the canvass to the cabinet. And why? To delay legislation and to protect himself, and the minority, and the constitution against hasty aggressive legislation. Surely! these purposes are just as effectually accomplished and secured under the delay provided for in the proposed amendment; and by the voice of the people and the States in the new Congress; and by the final veto of less than two-thirds of the Senate, by whom the States and the Executive will be effectually protected against the numerical majority in the Lower House, should TWO-THIRDS of both Houses (now sufficient) *not concur in the first instance* to pass the bill. In addition the one man veto power being absorbed in

Congress, leaves the Executive Department free from legislative distraction, and the Congress from Executive interference to control legislation by *sub-rosa* management and Executive influence.

But your memorialist would beg leave most respectfully to represent, that the proposed fifteenth amendment would not only aim to make the President a purely Executive officer, and protect him against the distractions and rivalships in Congress, but to secure him against the embarrassing dilemma which was presented to Washington, Jefferson, and Madison, of signing bills, *through courtesy and deference to the majority* in Congress, which their judgments did not approve. Yet, that "approval" is without discrimination or exception imperatively made the condition precedent to sanction authentication by the constitution. It will moreover be further seen by your Honorable Body, that the proposed amendment relates to no other bills, than those in which the issues raised are either personal to the President or of contested Executive jurisdiction, or of Constitutional power on the part of Congress, all others which *exclusively* belong or appertain to pure questions of expediency or common or personal right, &c. &c., in which the "end is not made to justify the means" which must always be "necessary and proper," are exclusively reserved to the numerical majority in Congress for final decision, under the seventh section, first article, as above adverted to.

In conclusion, your memorialist would further remark, that the present and past ages may be donominated, among other names, the ages of "secret societies," of "clubs," of "banquets," and of "caucus," all of which may be defined to be ORGANIZED associations of private individuals, *outside* of the established government, to revolutionize it, or to reform it, or to control it, and substitute its administration by the *communist will*, or the *club will*, or the *banquet will*, or *caucus will*.

But however necesssary these may have been in many cases under *absolute* forms of government, without *written* constitutions, it must be apparent to your honorable body, that the fifth article of the federal constitution — the freedom of the Elective Franchise, and the entire *liberty of the press*, render them unnecessary and improper among us. They are in fact founded among us either in absurdity or in wickedness. They are either rebels against the people, or they *are* the people, clubbing against themselves. If, therefore, *reform* is sincerely desired and thought very necessary, as it most sincerely is by your memorialist, the constitutional key of *reform* is in our *own* hands. Neither violence nor stealth, covin or device, are necessary among *us* to enter the temple erected to "well-regulated Liberty and the rights of man," *to put it in order*. No! Never! Our citizens, therefore, should not be *familiarized* either with "lynch law," or "club laws," or "banquet reform," or "caucus platforms," or with evasion or violation of any part or of the whole of the federal constitution, but so long *as it is what it is*, it should be respected and sustained by all — evaded or violated by none.

For all which, as in patriotic duty bound, your memorialist will ever pray.

November 12, 1848. JOHN W. KING.

LB JL '05

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